

8. Daniel L. Coutinho ("Coutinho") is the President of NET. Individually or in concert with others, he directs, controls, formulates or participates in the acts and practices of NET, including the acts and practices set forth herein. Coutinho transacts or has transacted business in this district.

9. Roger Ford ("Ford") is a senior manager and a sales representative of NET. At various times, he has represented himself as the head of marketing of NET. Individually or in concert with others, he directs, controls, formulates or participates in the acts and practices of NET, including the acts and practices set forth herein. Ford transacts or has transacted business in this district.

10. Ron Stewart ("Stewart") is a senior manager and a sales representative of NET. Individually or in concert with others, he directs, controls, formulates or participates in the acts and practices of NET, including the acts and practices set forth herein. Stewart transacts or has transacted business in this district.

11. Steve Collins ("Collins") is a senior manager and a sales representative of NET. Individually or in concert with others, he directs, controls, formulates or participates in the acts and practices of NET, including the acts and practices set forth herein. Collins transacts or has transacted business in this district.

12. The acts and practices of NET, Strategies, Tannen, Goldstein, Coutinho, Ford, Stewart, and Collins (hereafter

referred to collectively as "defendants") as alleged herein, are in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' COURSE OF CONDUCT

13. Paging refers to a wireless telecommunication service, offered by paging businesses, that utilizes certain radio frequencies licensed and regulated by the FCC. The customers of paging businesses carry small battery-operated devices known as pagers that receive messages transmitted over a paging business' radio frequencies in a specific service coverage area. Depending on the technology employed, the message can be a tone-only alert, a numeric telephone number that the caller enters to be called back, a short voice message, or a full alphanumeric text message inputted from a computer or similar terminal.

14. The FCC assigns paging licenses in several frequency bandwidths including the 929 MHz bandwidth. Licenses issued by the FCC grant the licensee either "shared" or "exclusive" use of a paging frequency for a specific service area. Five of the forty frequencies assigned to the 929 MHz frequency bandwidth are issued on a shared basis which means that a virtually unlimited number of individuals or companies may acquire the right to use the same portion of the radio spectrum within the defined service area. To obtain a shared license for a paging frequency, an applicant must submit a form to the FCC (Form 600) indicating the longitude and latitude of the tower sites from which the applicant intends to transmit radio signals. For the vast

majority of 929 MHz paging license applications, applicants are not required to conduct engineering studies, site analyses, environmental impact studies, or interference studies. The FCC application fee required for a 929 MHz paging license is \$45.00. If awarded a license, the licensee must begin providing paging service to the public within one year of receiving the license, or the FCC will revoke the license. Under FCC regulations, an applicant for a paging license is barred from obtaining or attempting to obtain such a license for the purpose of speculation or profitable resale. A licensee is required to use the license only for the purpose of providing telecommunication services to the public.

15. Since at least February 1995, and continuing thereafter, defendants have maintained a substantial course of trade in the sale of application preparation and filing services to consumers in connection with the FCC's paging licensing program. Defendants offer and sell their paging license application services to consumers throughout the United States through television infomercials, written promotional materials, and telephone sales presentations.

16. Defendants represent to consumers that NET will prepare and submit applications for FCC paging licenses for a fee of at least \$6,000 per license. Defendants submit or cause to have submitted to the FCC applications for shared frequencies. Defendants represent that the fee covers work required by the FCC, such as engineering studies, site analyses, environmental

impact studies, and interference studies. Defendants further represent that they earn little or no money from the service of preparing paging applications for consumers. Rather, defendants represent that they earn their money by deducting a monthly fee for each customer covered by the leasing agreements defendants represent NET consumers execute with large, established, well-known paging companies. Commonly, defendants attempt to "re-load" consumers by persuading them to purchase NET's services to acquire more than one license.

17. Defendants represent that consumers who pay for NET's license application services will obtain valuable FCC paging licenses. Defendants claim that consumers who obtain licenses will receive multiple offers by large, established, well-known paging companies to purchase or lease the licenses. Defendants also represent that they will assist the consumers in marketing the licenses for no additional charge. Defendants claim that the consumers who obtain licenses will not have to construct paging systems themselves, because the paging companies to whom they lease or sell will construct the systems. Defendants represent that the FCC will not grant multiple paging licenses to any single entity or individual for use in a given geographic area. According to defendants, this alleged restriction compels those paging companies that need additional licenses for their paging system to buy or lease licenses from other licensees, such as NET consumers. Defendants represent that NET is always, or nearly

always, successful in leasing or selling paging licenses acquired by NET consumers.

DEFENDANTS' VIOLATIONS OF THE FTC ACT

18. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits deceptive acts or practices in or affecting commerce.

19. As set forth below, in the course and conduct of their business, defendants, individually or in concert with others, have engaged in deceptive practices in violation of Section 5(a) of the FTC Act, in connection with the offering and sale of paging license application preparation services.

20. Defendants have falsely represented, directly or by implication, that defendants' customers are likely to earn substantial profit through leasing, transferring, or selling their licenses to paging businesses. In fact, defendants' customers are not likely to earn substantial profit through leasing, transferring, or selling their licenses to paging businesses.

21. Defendants have falsely represented, directly or by implication, that defendants' customers will derive income or profit from their licenses without constructing a paging system themselves. In fact, defendants' customers are unlikely to derive any income or profit from their licenses without constructing a paging system themselves.

22. Defendants have falsely represented, directly or by implication, that no entity or individual may obtain multiple paging licenses directly from the FCC for use in a given

geographic area. In fact, any entity or individual may obtain multiple paging licenses directly from the FCC for use in a given geographic area.

23. Defendants have falsely represented, directly or by implication, that the FCC typically requires a paging license applicant to submit or conduct engineering studies, site analyses, environmental impact statements, service coverage maps or interference studies for the types of licenses acquired through defendants' services. In fact in most instances, the FCC does not require a paging license applicant to submit or conduct engineering studies, site analyses, environmental impact statements, service coverage maps or interference studies for the types of licenses acquired through defendants' services.

24. Defendants have falsely represented, directly or by implication, that NET is a member of the Personal Communications Industry Association ("PCIA") and the American Mobile Telecommunication Association ("AMTA"). PCIA is a trade association that holds a contract with the FCC to serve as the frequency coordinator for paging license applications. AMTA is a trade association that informs its members of current FCC regulations and other regulations impacting on the telecommunication industry. In fact, NET is not a member of PCIA or AMTA.

25. Defendants have falsely represented, directly or by implication, that the purchase of paging licenses through defendants' application services is a relatively low risk,

excellent investment that is likely to generate substantial profits. In fact, the purchase of paging licenses through defendants' application services is not a relatively low risk, excellent investment that is likely to generate substantial profits. Indeed, the types of licenses for unconstructed paging systems that consumers obtain through defendants' application services have minimal, if any, investment value.

26. Defendants' false and misleading representations as set forth above constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JOINT AND SEVERAL LIABILITY

Paragraphs 1-26 above are incorporated herein by reference.

27. By and through the acts and practices described in Paragraphs 5-7, defendants Strategies, Tannen and Goldstein have functioned as a single business enterprise with each of the other defendants in commission of the violations of Section 5(a) of the FTC Act described in Paragraphs 19-26 above.

28. Because defendants Strategies, Tannen and Goldstein have functioned as a single business enterprise with the other defendants, they are each jointly and severally liable for the acts and practices of the other defendants involved in the business enterprise. The aforementioned acts and practices of defendants Strategies, Tannen and Goldstein thus violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

29. Consumers have in fact been injured by defendants' violations of Section 5(a) of the FTC Act, as set forth in Paragraphs 19 - 26 above. As a result of defendants' deceptive acts or practices, it is highly likely that consumers will lose all or part of their investments.

THIS COURT'S POWER TO GRANT RELIEF

30. Section 13(b) of the FTC Act empowers this Court to grant injunctive relief to prevent and remedy violations of the FTC Act, and in the exercise of its equitable jurisdiction, to award redress to remedy the injury to consumers, to order disgorgement of monies resulting from defendants' unlawful acts or practices, and to issue other ancillary equitable relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

(1) Enjoin defendants permanently, preliminarily and temporarily from violating Section 5(a) of the FTC Act in connection with the advertising, offering for sale, sale, or other promotion of services and investments in paging or other FCC licenses, or any other services and investments, or assisting in the making of deceptive written or oral statements similar to those alleged herein;

(2) Award such relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of Section 5(a) of the FTC Act, including but not limited to,

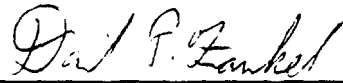
rescission of contracts or refund of money, and disgorgement of unlawfully obtained monies; and

(3) Award plaintiff the cost of bringing this action as well as such other and additional equitable relief as the Court may determine to be just and proper.

Dated: January 19, 1996

Respectfully submitted,

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11 UNITED STATES DISTRICT COURT
12 DISTRICT OF NEVADA

13
14 FEDERAL TRADE COMMISSION,

15 Plaintiff,

16 v.

17 ON LINE COMMUNICATIONS, INC., a
corporation; RICHARD
18 BASILE, individually and
as an officer of said
19 corporation; and ROBERT COREY
(a.k.a. Michael Aller),
20 individually,

21 Defendants.

CV-S-96-00055-LDG (RLH)

22
23 FIRST AMENDED COMPLAINT FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF

24 Plaintiff, the Federal Trade Commission ("Commission"), by its undersigned attorneys,
- 25 alleges as follows:
26

JURISDICTION AND VENUE

1. This is an action under Section 13(b) of the Federal Trade Commission Act ("Act"), 15 U.S.C. § 53(b), to secure a permanent injunction and other equitable relief, including rescission, restitution and disgorgement, against defendants for violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices. This Court has subject matter jurisdiction over plaintiff's claims pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

2. Venue in this district is proper under 28 U.S.C. § 1391(b) and (c) and 15 U.S.C. § 53(b).

THE PARTIES

3. Plaintiff Commission is an independent agency of the United States government created by statute (15 U.S.C. § 41 et seq.). The Commission is charged, inter alia, with enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and is authorized under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to initiate court proceedings to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case.

4. On Line Communications, Inc. ("On Line") is a Nevada corporation that identifies its principal place of business at 3305 West Spring Mountain Rd., #60-B, Las Vegas, NV 89102. On Line has been offering application preparation services to consumers in connection with the Federal Communications Commission's ("FCC's") paging licensing program. On Line transacts or has transacted business in this judicial district.

5. Richard Basile ("Basile") is On Line's president, secretary, treasurer and sole director. Individually or in concert with others, he has directed, controlled, formulated or participated in On Line's acts and practices, including the acts and practices set forth herein. He transacts or has transacted business in this judicial district.

1 6. Robert Corey ("Corey"), also known as Michael Allen, is a principal of On
2 Line. Individually or in concert with others, he has directed, controlled, formulated or
3 participated in On Line's acts and practices, including the acts and practices set forth herein.
4 He transacts or has transacted business in this judicial district.

5 7. Defendants On Line, Basile, and Corey transact or have transacted business in
6 the Southern Division of this judicial district.

7 8. The acts and practices of defendants On Line, Basile, and Corey, as alleged
8 herein, are in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act,
9 15 U.S.C. § 44.

10 DEFENDANTS' COURSE OF CONDUCT

11 9. Paging refers to a wireless telecommunication service, offered by paging
12 businesses, that utilizes certain radio frequencies licensed and regulated by the FCC. The
13 customers of paging businesses carry small battery-operated devices known as pagers that
14 receive information transmitted over a paging business' radio frequencies in a specific service
15 coverage area. The message can be a tone-only alert, a numeric telephone number that the
16 caller enters to be called back, a short voice message, or a full alphanumeric text message
17 inputted from a computer or similar terminal.

18 10. The FCC assigns paging licenses in several frequency bands including the 929
19 MHz bandwidth. Licenses issued by the FCC grant either "shared" or "exclusive" use of a
20 paging frequency for a specific service area to the licensee. Exclusive licenses are issued to
21 companies or individuals to use on an exclusive basis, which means that no other company or
22 individual may use that portion of the radio spectrum in that service area. Five of the forty
23 frequencies assigned to the 929 MHz frequency band are issued on a shared basis, which
24 means that a virtually unlimited number of individuals or companies may acquire the right to

1 use the same portion of the radio spectrum within the defined service area. Defendants obtain
2 only shared licenses. To obtain a shared license for a paging frequency, an applicant must
3 submit a form to the FCC (Form 600) indicating the longitude and latitude of the tower sites
4 from which they intend to transmit radio signals. For the vast majority of these paging
5 license applications, applicants are not required to conduct engineering studies, site analyses,
6 environmental impact studies, or interference studies. The FCC application fee required for a
7 929 MHz paging license is \$45. If awarded a license, the licensee must begin providing
8 paging service to the public within one year of being awarded the license, or the FCC will
9 revoke the license. Under FCC regulations, an applicant for a paging license is barred from
10 obtaining or attempting to obtain such a license for the purpose of speculation or profitable
11 resale. A licensee is required to use the license only for the purpose of providing
12 telecommunication services to the public.

13 11. Since at least June 1995, On Line, Basile, and Corey (hereafter collectively
14 referred to as "defendants") have maintained a substantial course of trade in the sale of
15 application preparation and filing services to consumers in connection with the FCC's paging
16 licensing program. Defendants offer and sell their paging license application services to
17 consumers throughout the United States through telephone sales presentations and written
18 promotional materials.

19 12. Defendants represent to consumers that On Line will prepare and submit
20 applications to the FCC to obtain paging licenses for a fee ranging from \$5,990 to \$12,990.
21 These fees enable consumers to obtain shared paging licenses for one metropolitan area.
22 Depending on the area, consumers receive as little as one, or as many as three, licenses.
23 Defendants represent that the fee covers such FCC required work as engineering studies, site
24 analyses, environmental impact studies, or interference studies, as well as assistance in

1 marketing the consumers' licenses. The precise amount of the fee depends upon the
2 population of the geographical area covered by the licenses for which On Line applies on
3 behalf of a consumer. Commonly, defendants attempt to "re-load" consumers by persuading
4 them to acquire licenses in different geographical areas.

5 13. Defendants represent that consumers who pay for On Line's license application
6 services will obtain valuable FCC paging licenses. Defendants claim that consumers who
7 obtain such licenses will receive multiple offers by paging companies to purchase or lease the
8 licenses. Defendants claim that consumers who obtain licenses will not have to construct
9 paging systems themselves, because the paging companies to whom they lease or sell will
10 construct the systems. Defendants also claim that the consumers will be able to either sell or
11 lease their licenses for a multiple of the \$5,990 to \$12,990 that they pay for defendants'
12 services. Further, defendants represent that paging companies will want to lease or purchase
13 licenses from consumers because the FCC will not grant multiple paging licenses to any single
14 entity or individual for use in a given geographical area. Defendants claim that this alleged
15 restriction compels those paging companies that need additional licenses for their paging
16 system to buy or lease licenses from other licensees, rather than obtaining additional licenses
17 from the FCC.

18 14. Defendants commonly claim that consumers must buy defendants' services very
19 quickly if they wish to take advantage of the excellent investment opportunity that On Line is
20 offering. To support such a sense of urgency, defendants represent that the FCC will grant to
21 the public only a limited number of the licenses for which the consumers would be applying,
22 and that such licenses are not likely to be available much longer.

DEFENDANTS' VIOLATIONS OF THE FTC ACT

15. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) prohibits deceptive acts or practices in or affecting commerce.

16. As set forth below, in the course and conduct of their business, defendants, individually or in concert with others, have engaged in deceptive practices in violation of Section 5(a) of the FTC Act, in connection with the offering and sale of paging license application preparation services.

17. Defendants have falsely represented, directly or by implication, that defendants' customers are likely to earn substantial profit through leasing or selling their licenses to paging businesses. In fact, defendants' customers are not likely to earn substantial profit through leasing or selling their licenses to paging businesses.

18. Defendants have falsely represented, directly or by implication, that defendants' customers will derive income or profit from their licenses without constructing a paging system themselves. In fact, defendants' customers are unlikely to derive any income or profit from their licenses without constructing a paging system themselves.

19. Defendants have falsely represented, directly or by implication, that no entity or individual may obtain multiple paging licenses directly from the FCC for use in a given geographic area. In fact, any entity or individual may obtain multiple paging licenses directly from the FCC for use in a given geographic area.

20. Defendants have falsely represented, directly or by implication, that, regarding the paging licenses which consumers obtain through On Line's services, the FCC has indicated that it will restrict the number of such licenses available to the public for certain geographical areas. In fact, the FCC has never indicated that it will restrict the number of such licenses available to the public for certain geographical areas. The FCC has set no limits

1 on the number of "shared" paging frequency licenses that would be available to the public in
2 any geographical area.

3 21. Defendants have falsely represented, directly or by implication, that the FCC
4 typically requires a paging license applicant to submit or conduct engineering studies, site
5 analyses, environmental impact statements, service coverage maps or interference studies for
6 the type of licenses acquired through defendants' services. In fact, in most instances, the FCC
7 does not require a paging license applicant to submit or conduct engineering studies, site
8 analyses, environmental impact statements, service coverage maps or interference studies for
9 the type of licenses acquired through defendants' services.

10 22. Defendants have falsely represented, directly or by implication, that the
11 purchase of paging licenses through defendants' application services is a relatively low risk,
12 excellent investment that is likely to generate substantial profits. In fact, the purchase of
13 paging licenses through defendants' application services is not a relatively low risk, excellent
14 investment that is likely to generate substantial profits. Indeed, the types of licenses for
15 unconstructed paging systems that consumers obtain through defendants' application services
16 have minimal, if any, investment value.

17 23. Defendants' false and misleading representations as set forth above constitute
18 deceptive acts or practices prohibited by Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

19 CONSUMER INJURY

20 24. Consumers have in fact been injured by defendants' violations of Section 5(a)
21 of the FTC Act, as set forth in Paragraphs 16-22 above. As a result of defendants' deceptive
22 acts or practices, it is highly likely that consumers will lose all or part of their investments.
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THIS COURT'S POWER TO GRANT RELIEF

25. Section 13(b) of the FTC Act empowers this Court to grant injunctive relief to prevent and remedy violations of the FTC Act, and in the exercise of its equitable jurisdiction, to award redress to remedy the injury to consumers, order disgorgement of monies resulting from defendants' unlawful acts or practices, and issue other ancillary equitable relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

(1) Enjoin defendants permanently and preliminarily from violating Section 5(a) of the FTC Act in connection with the advertising, offering for sale, sale, or other promotion of services and investments in paging or other FCC licenses, or any other services and investments, or assisting in the making of deceptive written or oral statements similar to those alleged herein;

(2) Award such relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of Section 5(a) of the FTC Act, including but not limited to, rescission of contracts or refund of money, and disgorgement of unlawfully obtained monies;

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1 (3) Award plaintiff the cost of bringing this action as well as such other and
2 additional equitable relief as the Court may determine to be just and proper.
3

4 Dated: 2/1/96

5 Respectfully submitted,

6
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General Counsel

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9 
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FEDERAL TRADE COMMISSION

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

USA CHANNEL SYSTEMS, INC.,
TWO-WAY SYSTEMS, INC.,
CHARLES BERNARD BAYNE,

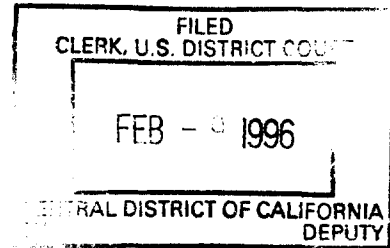
individually, and as an
officer of USA Channel
Systems, Inc., and d/b/a
"Page 8" as "co-partner"
with Rick Havil,

RICK HAVIL, individually, and
as an officer of Two-Way
Systems, Inc., and d/b/a
"Page 8" as "co-partner"
with Charles Bernard
Bayne,

Defendants.

Civil No. 96-0454 HLH (CTx)

FIRST AMENDED COMPLAINT FOR
INJUNCTION AND OTHER EQUITABLE
RELIEF



1 Plaintiff, the Federal Trade Commission ("Commission" or
2 "FTC"), by its undersigned attorneys, alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This is an action under Section 13(b) of the FTC Act,
5 15 U.S.C. § 53(b), to secure a permanent injunction and other
6 equitable relief, including rescission, restitution and
7 disgorgement, against defendants for violations of Section 5(a)
8 of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or
9 deceptive acts or practices. This Court has subject matter
10 jurisdiction over plaintiff's claims pursuant to 28 U.S.C.
11 §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

12 2. Venue in this district is proper under 28 U.S.C.
13 § 1391(b) and (c) and 15 U.S.C. § 53(b).

14 **THE PARTIES**

15 3. Plaintiff Commission is an independent agency of the
16 United States government created by and charged with the
17 enforcement of the FTC Act, 15 U.S.C. §§ 41-58. Section 5(a) of
18 the FTC Act, 15 U.S.C. § 45(a), prohibits deceptive acts or
19 practices in or affecting commerce. Section 13(b) of the FTC
20 Act, 15 U.S.C. § 53(b), authorizes the FTC to initiate court
21 proceedings to enjoin violations of the FTC Act and to secure
22 such equitable relief as may be appropriate in each case.

23 4. USA Channel Systems, Inc. ("USACS") is a California
24 corporation with its principal place of business at 1900 Avenue
25 of the Stars, Suite 740, Los Angeles, California 90067. USACS
26 offers application preparation services to consumers in
27 connection with the Federal Communications Commission's ("FCC's")
28

1 paging licensing program. USACS transacts business in this
2 district.

3 5. Two-Way Systems, Inc. ("TWS") is a California
4 corporation, with its principal place of business at 1900 Avenue
5 of the Stars, Suites 2830 and 2860, Los Angeles, California
6 90067. According to USACS sales agents, TWS would build and
7 operate a paging system, and lease the paging licenses of USACS'
8 customers. TWS received substantial monies from USACS'
9 customers. TWS transacts business in this district.

10 6. Charles Bernard Bayne ("Bayne") is a director and
11 officer of defendant USACS, has held himself out as an officer of
12 defendant TWS, and, with defendant Rick Havil as "co-partner,"
13 has used the fictitious business name "Page 8." He has trained
14 USACS sales agents and made sales presentations directly to USACS
15 customers. Individually or in concert with others, he directs,
16 controls, formulates or participates in the acts and practices of
17 defendants USACS and TWS, including the acts and practices set
18 forth herein. Bayne transacts business in this district.

19 7. Rick Havil ("Havil") has held himself out as an officer
20 of defendant USACS, is a director and officer of defendant TWS,
21 and, with defendant Bayne as "co-partner," has used the
22 fictitious business name "Page 8." He has trained USACS sales
23 agents and made sales presentations directly to USACS customers.
24 Individually or in concert with others, he directs, control,
25 formulates or participates in the acts and practices of USACS and
26 TWS, including the acts and practices set forth herein. Havil
27 transacts business in this district.

8. The acts and practices of defendants USACS, TWS, Bayne, and Havil (collectively, "defendants") as alleged herein, are in or affecting commerce as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' COURSE OF CONDUCT

9. Paging refers to a wireless telecommunication service, offered by paging businesses, that utilizes certain radio frequencies licensed and regulated by the FCC. The customers of paging businesses carry small battery-operated devices known as pagers, that receive messages transmitted over a paging business' radio frequencies in a specific service coverage area. Depending on the technology employed, the message can be a tone-only alert, a numeric telephone number that the caller enters to be called back, a short voice message, or a full alphanumeric text message inputted from a computer or similar terminal.

10. The FCC issues paging licenses in several frequency bandwidths, including the 931 megahertz ("MHz") bandwidth. To apply for a 931 MHz license in a specific geographic area, an applicant must submit to the FCC a \$265 fee and FCC Form 600, indicating, among other things, the longitude and latitude from which the applicant intends to transmit radio signals. For the vast majority of paging license applications, applicants are not required to conduct engineering studies, site analyses, environmental impact studies, and interference studies. If awarded a license, the applicant/licensee must begin providing paging service to the public within one year of receiving the license, or the FCC will revoke the license. Under FCC

1 regulations, an applicant for a paging licenses is barred from
2 obtaining or attempting to obtain such a license for the purpose
3 of speculation or profitable resale. A licensee is required to
4 use the license only for the purpose of providing
5 telecommunication services to the public.

6 11. Since at least July 1994, and continuing thereafter,
7 defendants have maintained a substantial course of trade in the
8 sale of application preparation and filing services to consumers
9 in connection with the FCC's paging licensing program.

10 Defendants offer and sell their paging license application
11 services to consumers throughout the United States through
12 telephone sales presentations and written promotional materials.

13 12. Defendants represent to consumers that USACS will
14 prepare and submit applications to the FCC to obtain 931 MHz
15 paging licenses for a fee of \$8,000. Defendants represent to
16 consumers that any license obtained through their application
17 services is extremely valuable. Defendants claim that a paging
18 carrier or they themselves, through USACS or TWS, will lease or
19 otherwise acquire any license a consumer obtains through USACS'
20 application services within one year. In many instances,
21 defendants claim that the lessee will likely pay the consumer
22 monthly fees so substantial that the consumer will recoup his or
23 her \$8,000 application fee in twelve to eighteen months of
24 obtaining the license

1 **DEFENDANTS' VIOLATIONS OF THE FTC ACT**

2 13. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),
3 prohibits deceptive acts or practices in or affecting commerce.

4 14. As set forth below, in the course and conduct of their
5 business, defendants, individually or in concert with others,
6 have engaged in deceptive practices in violation of Section 5(a)
7 of the FTC Act, in connection with the offering and sale of
8 paging license application preparation services.

9 15. Defendants have falsely represented, directly or by
10 implication, that consumers are likely to earn substantial
11 profits through leasing, transferring, or selling any license
12 obtained through defendants' application services to USACS, TWS,
13 or another paging carrier. In fact, consumers are not likely to
14 earn substantial profits through leasing, transferring, or
15 selling any license obtained through defendants' application
16 services to USACS, TWS, or another paging carrier.

17 16. Defendants have falsely represented, directly or by
18 implication, that no entity or individual may obtain multiple
19 paging licenses directly from the FCC for use in a given
20 geographic area. In fact, any entity or individual may obtain
21 multiple paging licenses directly from the FCC for use in a given
22 geographic area.

23 17. Defendants have falsely represented, directly or by
24 implication, that the purchase of paging licenses through
25 defendants' application services is a relatively low risk,
26 excellent investment that is likely to generate substantial
27 profits. In fact, the purchase of paging licenses through
28

1 defendants' application services is not a relatively low risk,
2 excellent investment that is likely to generate substantial
3 profits. Indeed, the types of licenses for unconstructed paging
4 systems that consumers obtain through defendants' application
5 services have minimal, if any, investment value.

6 18. Defendants have failed to disclose that their customers
7 are unlikely to derive any income or profits from any license
8 obtained through defendants' application services without
9 constructing a paging system themselves. This fact would be
10 material to consumers in their purchase decisions regarding
11 defendants' application services. In light of defendants'
12 representations, set forth in Paragraphs 15 and 17 above, about
13 the profitability of the paging licenses, the failure to disclose
14 was a deceptive practice.

15 19. Defendants' false and misleading representations and
16 failure to disclose material facts as set forth above constitute
17 deceptive acts or practices prohibited by Section 5(a) of the FTC
18 Act, 15 U.S.C. § 45(a).

19 **JOINT AND SEVERAL LIABILITY**

20 Paragraphs 1-19 are incorporated herein by reference.

21 20. By and through the acts and practices described in
22 Paragraphs 4-12, defendants USACS, TWS, Bayne, and Havil have
23 functioned as a single business enterprise with each of the other
24 defendants in commission of the violations of Section 5(a) of the
25 FTC Act described in Paragraphs 15-18 above.

26 21. Because defendants USACS, TWS, Bayne, and Havil have
27 functioned as a single business enterprise, they are each jointly
28